

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GARY LABARBERA, et al.,

Plaintiff,

v.

MEMORANDUM & ORDER
07-CV-3114 (NGG) (JO)

ABBEEY TOOL & INDUSTRIAL
SUPPLY CO.,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

On August 11, 2008, Magistrate Judge James Orenstein issued a Report and Recommendation (“R&R”) recommending that the court award Plaintiffs a total of \$3,585.39 in reasonable attorneys’ fees and other litigation costs, consisting of \$2,820.00 in attorneys’ fees and \$765.39 in other costs. (R&R (Docket Entry # 11) at 1, 14.) Magistrate Judge Orenstein specifically notified the parties that “[a]ny Objections to this Report and Recommendation must be filed with the Clerk no later than August 29, 2008. Failure to file objections within this period waives the right to appeal the District Court’s order.” (Id. at 14.)

In reviewing an R&R, this court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). In order to accept a magistrate judge’s R&R where, as here, no timely objection has been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001); see also Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991) (a district court may accept an R&R if it is “not facially erroneous”).

I find Judge Orenstein's R&R to be thorough and well-reasoned; indeed, Judge Orenstein's careful analysis led him to reduce the hourly rate requested by Plaintiffs, despite the fact that Defendant failed to respond to the motion for attorneys' fees. (See R&R at 1, 9-12.) In short, there is no clear error on the record. Therefore, this court adopts Magistrate Judge Orenstein's R&R and notes that, by their failure to object, the parties have waived further judicial review of this Order. See Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002) ("failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision").

The clerk of court is directed to close the case.

SO ORDERED.

Dated: September 5, 2008
Brooklyn, N.Y.

s/Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge